

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

AARON GANT, et al.,

Plaintiffs,

v.

FORD MOTOR COMPANY, INC.,

Defendant.

Case: 2:19-cv-12533

Honorable Sean F. Cox

Magistrate Judge David R. Grand

**DEFENDANT FORD MOTOR COMPANY'S
EX PARTE MOTION TO EXTEND PAGE LIMITATION**

Defendant Ford Motor Company, by its counsel Bowman and Brooke LLP, per E.D. Mich. LR 7.1(d)(3)(A), moves the Court *ex parte* for an Order extending the page limit for Ford's first responsive filing. Ford intends to move to dismiss (with a supporting brief) against this 439-page, 505-paragraph mass action complaint containing seven counts brought by 373 plaintiffs who reside in at least 43 different states. Given the sheer size of the complaint, number of plaintiffs, and number of claims and allegations, Ford asks the Court to extend the page limit for its brief in support of its motion to dismiss from 25 pages permitted under LR 7.1(d)(3) and because of the extraordinary circumstances, to no more than 55 pages, with a corresponding allowance of up to 55 pages for the plaintiffs' response, and up to 30 pages for Ford's reply. In support, Ford states as follows:

1. The plaintiffs' 439-page Complaint includes 505 paragraphs (not counting dozens of subparagraphs), with seven counts asserted by all 373 plaintiffs. The plaintiffs currently reside in 43 different states and allege to have purchased 2010 to 2017 Ford Fusion vehicles between 2009 and 2019. (*Generally* Compl. (Attached as Exhibit to ECF No. 1)).

2. Their Complaint's seven counts allege claims on behalf of all 373 plaintiffs for Breach of Express and Implied warranty (Counts I-II); Revocation of Acceptance (Count III); Violation of the Michigan Consumer Protection Act (Count IV); "Uniform Commercial Code – Unconscionability" (Count V); Fraud and/or Misrepresentation (Count VI); and Unjust Enrichment (Count VII).

3. Even discounting the pages of the Complaint related to each individual plaintiff, the Complaint would still amount to a 69-pages, spanning 133 paragraphs (not counting dozens of subparagraphs), with references to 121 alleged NHTSA Complaints and citations to 50 technical service bulletins and other market actions.

4. E.D. Mich. LR 7.1(d)(3)(A) normally provides that a brief supporting a motion or response, including footnotes and signatures, "may not exceed 25 pages." The rule allows, however, for the movant to "apply *ex parte*" for an extension on that page limit. While this Court "does not grant motions to extend the page limits for briefs provided under the local court rules, unless warranted by a unique/novel question of law or other extraordinary circumstances," Ford asserts

that the sheer size of the complaint, number of plaintiffs, and number of claims and allegations, constitutes an extraordinary circumstance warranting a page limit extension.

5. Here, Ford respectfully requests that the Court extend the page limitations to up to 55 pages for the opening and response briefs, and up to 30 pages Ford's reply. These extensions are justified for the extraordinary circumstances stated above and also because the Complaint contains numerous issues pled in preemptive defense to Ford's arguments (e.g., alleged tolling, alleged unconscionability, etc.), as well as the complexity of the legal, procedural, and factual issues generally implicated by this mass-action Complaint.

6. Ford respectfully submits this request is reasonable in light of the plaintiffs' complaint. Moreover, its request is consistent with similar granted extensions in cases involving larger complaints. For example, in *Gamboa v. Ford Motor Co.*, the Court granted an *ex parte* extension for up to 50 pages for the opening and response briefs on a motion to dismiss where the complaint was 273 pages (166 fewer than here) and included six named plaintiffs (367 fewer than here). No. 2:18-cv-10106, ECF No. 26 (E.D. Mich. Mar. 30, 2018) (Hood, J.).

7. Pursuant to E.D. Mich. LR 7.1(a)(1), Ford requested concurrence in this motion from the plaintiffs' counsel. Counsel for Ford and the plaintiffs have discussed telephonically and by E-mail Ford's requested relief, and while the

plaintiffs' counsel does not believe the page-limit extension requested by Ford is appropriate or necessary, the plaintiffs do not oppose Ford's request as a "professional courtesy" if the plaintiffs receive the same page-length extension for their response brief and if the briefing schedule for Ford's motion to dismiss is extended as follows:

- Plaintiffs' Response Brief is due on November 23; and
- Ford's Reply Brief is due on December 23, 2019.

Ford does not oppose and concurs in the plaintiffs' request to adjust this briefing schedule.

8. Should the Court deny the requested extension—either to allow a shorter extension, or no extension—Ford respectfully requests a short extension of time for its responsive filing for an additional two weeks from the Court's ruling, so that it may comport its supporting brief to the Court's allowance.

WHEREFORE, Defendant Ford respectfully requests that the Court grant its *ex parte* motion and enter an Order increasing the page limit for the briefing on Ford's forthcoming motion to dismiss to up to 55 pages for the opening and response briefs, and up to 30 pages for Ford's reply and extend the briefing schedule for Ford's motion to dismiss to make the plaintiffs' response brief due on November 23, and Ford's reply brief due on December 23, 2019.

Respectfully submitted,

BOWMAN AND BROOKE LLP

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CERTIFICATE OF SERVICE

I hereby certify that on October 1, 2019, I electronically filed the foregoing paper Defendant Ford Motor Company's *Ex Parte* Motion to Extend Page Limitation with the Clerk of the Court using the ECF System, which will send notification to all ECF counsel of record.

Respectfully submitted,

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